

# MONTANA STATE PLAN & POLICY MANUAL

## CHAPTER THREE

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Policy Number 3.4  
Fraud/Abuse/Sanctions  
Revised/Effective Date: October 1, 2012

**Title:** Fraud/Abuse/Sanctions

### **Purpose**

Maintaining program integrity is important for our participants to be able to continue benefits from services of the WIC program. Loss of the WIC program due to participant/employee fraud and abuse by would be greatly detrimental to the State of Montana.

### **Authority**

246.4(a)(26); 246.7(i); 246.12 (u); 246.23 (c)

### **Policy**

It is the policy of the Montana WIC Program that participants, authorized representatives, or employees who misrepresent their circumstances in order to receive WIC benefits or commit an identified fraud/abuse of the WIC Program will be issued sanctions. Standard and uniform procedures will be used to sanction a participant. Participant sanctions may include education and a warning, disqualification and repayment of benefits for participants, and employee sanctions may include immediate removal from WIC duties and repayment of fraud costs/benefits.

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## **I. Fraud/Abuse**

- A. The WIC program is to be alert for possible participant/employee abuse. When abuse is detected or suspected, the WIC agency must document as completely as possible, including a narrative account of how abuse was detected and copies of any relevant food benefits or other documents.
- B. This information is entered on the [WIC Participant Fraud/Abuse Form](#), and discussed with the participant/authorized rep. The participant/authorized rep is given an opportunity to make a statement, but in no case should be forced to. If the participant/authorized rep will not, or cannot sign a statement, note this on the form.
- C. If the offence requires "Education and/or a Warning Letter", educate the participant on the issue and document the results of an additional offense. Document the discussion using the [Warning Letter](#), sign and make a copy for the participant. The Warning Letter and Participant Fraud/Abuse Form are scanned into the participants file and the original documents are sent to the state office.
- D. A first or second offense that results in disqualification should be documented using the [End of Certification/Notice of Ineligibility Form](#). Document information, sign and date. Make a copy for the participant, scan the form into the participant's file, and send the original to the state office with the other documentation.
- E. A log is maintained by the state office regarding all reported fraud/abuse.
- F. If/when an employee is suspected of fraud/abuse an audit is requested to be performed by the Quality Assurance Bureau.

## **II. Definition of Fraud/Abuse**

- A. The definition of fraud/abuse is (one or more of the following):

1. Intentionally making false or misleading statements or intentionally misrepresenting, concealing or withholding facts to obtain benefits.
2. Sale or exchange of food or food benefits for cash or other items.
3. Stealing WIC benefits from a local WIC program or WIC participant.
4. Receipt of cash, credit or rain checks from food retailers in a WIC purchase.
5. Purchase of unauthorized food or other items of value.
6. Alteration of food benefits.
7. Redemption of food instruments reported lost or stolen.
8. Redeeming a WIC benefit outside the authorized date range.
9. Redeeming a WIC benefit at stores not listed as an authorized WIC retailer/farmer.
10. Dual participation, receiving/redeeming food benefits from 2 or more programs/clinics in the same month.
11. Verbal or physical abuse or threat of physical abuse, of clinic or food retailer staff or farmer.

**III. Federal Regulations Require the Collection of Benefits Through Misrepresentation**

**IV. Dual Participation**

- A. Definition: Receiving/redeeming food benefits from two (2) programs/clinics in the same month.
- B. Dual certification constitutes a potential for fraud/abuse. Beginning-of-Day reports identify potential dual participation cases within the state. The local program receiving notification must research the potential dual case(s).
  1. Obvious inconsistencies like clinic errors and twins are screened out. An initial contact is made between the local programs involved to determine if fraud exists or whether the case(s) are “false” duals.
  2. Information about the situation, including food benefits issued, clinics where food benefits were issued, dollar amount, county of participant residence, etc., must be included in the report.
- C. Once a dual participant is clearly identified (food benefits were received and cashed), the local WIC clinic takes steps outlined in “Participant Sanctions” and take necessary action.
- D. The local agency will notify the State WIC Office of a dual participant. Local WIC program staff will complete the WIC Participants Fraud Form and send it to the State WIC Office.

**V. Participant Sanctions**

- A. The State WIC Office determines uniform procedures and sanctions to be applied in cases of program abuse by participants or applicants. A sanction, which is based on the severity of the abuse, may range from education and warning letter to disqualification from the WIC program for a maximum of twelve months.
- B. Participants or authorized representatives who misrepresent their circumstances in order to receive food benefits will be required to pay the cash value of improperly received benefits to the State WIC Office.
  - 1. Local agency staff will notify the State WIC Office staff when a participant is suspected to improperly receiving WIC benefits.
    - a. Local agency staff will complete the WIC Participants Fraud Form and send it to the State WIC Office.
  - 2. The local agency staff will provide the State WIC Office all information regarding the participant and other family/household members that is requested.
    - a. The State WIC Office will review the information and any redemption.
  - 3. If misrepresentation has occurred, the local agency staff will be notified of the outcome.
    - a. The participant will be notified in writing by the local agency staff of sanctions issued and the duration of any disqualification or suspension.
    - b. The participant will receive information about the right to a fair hearing including the timeframe and process of requesting one.
  - 4. If misrepresentation has occurred and benefits were issued, then in addition to sanctions being issued by the local agency staff, the State WIC Office will pursue collection in cash from the participant of the improperly issued benefits.
    - a. Included in the written sanction notice (including the fair hearing information), will be the amount of the claim based on our information which must be repaid by the participant.
    - b. If full restitution has not been received or a payment plan developed and on track, follow-up contracts will be made every thirty (30) days.
    - c. State WIC Office staff will follow accepted DPHHS practice and applicable state law in pursuing cash recovery.
    - d. State WIC Office staff will refer participants who abuse the WIC program to federal, state or local authorities for prosecution under applicable statutes where appropriate.

5. If no misrepresentation has occurred the local agency will continue issuing benefits.

**VI. Other Participant Abuse**

- A. The local agency will issue appropriate sanctions if the participant has abused the WIC Program.
- B. Participant will be informed of their right to a fair administrative review including the timeframe and process of requesting one, if the sanctions include as adverse action.

**VII. Mandatory Disqualification**

- A. The State WIC Office will disqualify the participant for one year (12 months) when:
  1. A claim is assessed for \$100.00 or more
  2. A claim is assessed for dual participation
  3. A second or subsequent claim for any amount is assessed on a participant
- B. The State WIC Office may allow an exception to disqualification. Exceptions to mandatory disqualification are:
  1. If within 30 days of receipt of the letter demanding repayment, full restitution is made or a repayment schedule is agreed on or, in the case of a participant who is an infant, child, or under age 18, and the State WIC Office approves the designation of a proxy.
  2. The State WIC Office may permit a participant to reapply for the WIC Program before the end of a mandatory disqualification period if full restitution is agreed upon, or in the case of a participant who is an infant, child, or under age 18, and the State approves the designation of a proxy.

**VIII. List of the types of Participant Abuse and the Sanctions**

- A. Following is a list of the types of participant abuse and the sanctions to be imposed on participants or applicants and their authorized proxies.

**WIC Program Abuse and Sanctions**

	Abuses	Offense	Sanctions
1	Knowing and deliberate misrepresentation of circumstances to obtain benefits: <ul style="list-style-type: none"><li>•misrepresentation of income, residence, family size; or health status</li><li>•falsification of medical data or health status.</li><li>•misrepresentation of actual date of birth so as to appear to be categorically eligible, or to go undetected as a dual participant.</li></ul>	1st	Twelve month disqualification from the WIC program.  Participants or authorized representatives will be required to pay the State WIC Agency in cash, the value of food benefits improperly received.  See Mandatory disqualification exception (above).

**NOTE:** Participants can in fact be eligible in spite of their misrepresentation of circumstances. A participant, with an actual family size of 4, claims she has 5 in the family. Her proof of income makes a family of 5 or 4 eligible for benefits.

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In this case a warning letter must be given to the participant.			
2	Dual participation (redeeming food benefits from 2 programs/clinics in the same month).	1st	Immediate removal from one program/clinic and twelve month disqualification from the other program/clinic. See Mandatory disqualification (above). See Mandatory disqualification exception (above).
3	Stealing WIC benefits from a local WIC clinic or other participant.	1st	Three month disqualification.
4	Physical abuse of WIC or food retailer staff or farmer.	1st	Three month disqualification.
5	Sale or exchange of supplemental food or WIC benefits to other individuals or entities, or to obtain cash refund for WIC foods.	1st	Three month disqualification.
6	Receipt of, or attempt to receive from WIC food retailer, cash or credit toward purchase of unauthorized food or other items of value in lieu of, or in addition to, authorized supplemental foods.	1st	Education & Warning Letter.
		2nd	Three month disqualification.
		3rd	Twelve month disqualification.
7	Redeeming WIC benefits that were reported as lost or stolen.	1st	Three month disqualification.
		2nd	Twelve month disqualification.
8	Altering WIC benefits.	1st	Three month disqualification.
		2nd	Twelve month disqualification.
9	Purchasing, or attempting to purchase, food in excess of that authorized on the WIC benefit.	1st	Education & Warning Letter.
		2nd	Three month disqualification.
		3rd	Twelve month disqualification.
10	Purchase, or attempt to purchase, unauthorized foods.	1st	Education & Warning Letter.
		2nd	Three month disqualification.
		3rd	Twelve month disqualification.
11	Redeeming WIC benefits outside the valid date range.	1st	Education and warning letter (also monthly check pick-up may be appropriate).
		2nd	Three month disqualification.
		3rd	Twelve month disqualification
12	Redeeming WIC benefit(s) at store not listed as an authorized WIC retailer/farmer.  It is the responsibility of the WIC participant to reimburse the retailer/farmer for the value of the WIC benefit.	1st	Education and warning letter.
		2nd	One month disqualification.
		3rd	Three month disqualification.
13	Verbal abuse or harassment of WIC staff, retail staff or farmer.	1st	Education and warning letter (change of retailer/authorized representative/proxy may also be appropriate).
		2nd	Three month disqualification.
		3rd	Twelve month disqualification.

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14	Threat of physical abuse of WIC or food retail/farm staff.	1st	Education and warning letter.
		2nd	Three month disqualification.
15	No signature on benefit – participant did not respond to clinic notification to return to store to sign benefit.	1st	Education & Warning Letter.

**XI. Participant Abuse and Sanctions**

- A. All offenses under this policy will be kept on the participant's record for one year.
1. A repeated occurrence of an actual or attempted abuse within one year of the first offense warrants a second or third abuse sanction, whichever is appropriate, even if the latest abuse is unrelated to the previous abuse(s).
  2. For instance, a participant steals WIC benefits from a local agency (abuse #3). As a first offense, the participant will receive a three month disqualification. If within a one year period, this participant redeems WIC benefits for unauthorized foods (abuse #6), this constitutes a second offense. The participant would be disqualified for three months.

**NOTE:** The coordinator must attempt to discern whether the conduct of the food retail/far as staff may have provoked the authorized representative or proxy. The authorized representative or proxy has the right to complain about improper or discourteous treatment and will not be penalized for making a legitimate complaint.